

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

RCRev..No. 272 of 2007()

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(AGAINST JUDGMENT DATED 19/03/07 IN RCA NO.26/2004 ON THE
FILE OF THE DISTRICT JUDGE, KOLLAM, ARISING OUT OF ORDER
DATED 31/10/2003 IN RCOP 25/1987 ON THE FILE OF RENT
CONTROL COURT,KOLLAM)**

REVISION PETITIONERS/ADDL. APPELLANTS 2 TO 4/NOT PARTY:

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- 1. NAZARUDEEN,S/O. S. NOORUDEEN,
AGED 64,RESIDING AT PARK VIEW,KOTTAKKAKATHU CHERRY,
KOLLAM VILLAGE, KOLLAM.**
 - 2. ARIFA BEEVI,D/O.S.NOORUDEEN,
AGED 66,RESIDING AT PARK VIEW,KOTTAKKAKATHU CHERRY
KOLLAM VILLAGE, KOLLAM.**
 - 3. ANVARUDEEN,S/O.S. NOORUDEEN,AGED 53YEARS
RESIDING AT PARK VIEW,KOTTAKKAKATHU CHERRY,
KOLLAM VILLAGE, KOLLAM.**

**BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SMT. DHANYA CHANDRAN
SRI.T.R.SADEESAN**

RESPONDENTS: RESPONDENTS/RESPONDENTS:

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- 1. M/S.KRISHNA TALKIES,KOLLAM,
REPRESENTED BY ITS MANAGING PARTNER
R.THIRUVENKITOM, AGED 72 YEARS,S/O. RAMASWAMI
REDDIAR, KUMAR BHAVAN, VADAYATTUKOTTA, KOLLAM.**
 - 2. R.THIRUVENKITOM, AGED 72 YEARS,
S/O. RAMASWAMI REDDIAR,
KUMAR BHAVANAM,KOLLAM.**

BY

**THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION
ON 28/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

K.BALAKRISHNAN NAIR &
T.R.RAMACHANDRAN NAIR, JJ.

R.C.R. NO.272 OF 2007-G

Dated 28th September, 2007.

ORDER

Balakrishnan Nair, J.

This Rent Control Revision is filed, challenging the judgment of the appellate authority in R.C.A.No.26/2004. When the revision came up for admission, the learned counsel for the revision petitioners canvassed the position that the appellate authority did not consider the claim of the revision petitioners regarding the arrears of rent and the prayer for eviction under Section 11(2)(b) of the Kerala Buildings (Lease and Rent Control) Act. Since the said point is not considered by the appellate authority, normally, it has to be presumed that the said point was not urged. But, the learned counsel for the revision petitioners asserted that the said point was canvassed by the revision petitioners before the appellate authority. If that be so, normally, the remedy is to file a review petition before the appellate authority, pointing out its failure to consider the point which was raised before it. Today, when the matter came up for admission, the learned

counsel for the revision petitioners submitted that the revision petitioners have already filed R.P.No.1400/2007 in the above R.C.A., along with an application to condone the delay.

In view of the above position, this R.C.R is closed without prejudice to the contentions of the revision petitioners and their right to pursue the above review petition.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/